

**Community Bill of Rights Ordinance No. \_\_ 2014**  
**TOWN OF BARRINGTON, STRAFFORD COUNTY, NEW HAMPSHIRE**

**AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF RIVER ECOSYSTEMS  
AND RESIDENTS OF BARRINGTON, NEW HAMPSHIRE BY ESTABLISHING A COMMUNITY BILL  
OF RIGHTS AND BY PROHIBITING RESOURCE EXTRACTION AND TOXIC WASTE DISPOSAL  
THAT WOULD VIOLATE THOSE RIGHTS**

Whereas, this community finds that commercial resource extraction and toxic waste disposal are economically and environmentally unsustainable, in that they damage property values and the natural environment, place the health of residents at risk, threaten the quality of the natural water systems within the Town, while failing to provide real benefits to the people of this community; and

Whereas, this community finds that commercial resource extraction and toxic waste disposal violate the rights of Barrington residents, including our right to make decisions about what happens to the places where we live; and

Whereas, this community finds that a change in the Town of Barrington's zoning ordinance in March, 2005 – which allows certain commercial resource extraction to occur - places the environment at risk and violates the rights of residents; and

Whereas, current environmental laws allow state-chartered corporations to inflict damage on local water systems that cannot be reversed, violating the rights of residents to protect their community and the rights of ecosystems to exist; and

Whereas, private corporations engaged in resource extraction and toxic waste disposal are wrongly recognized by the federal and state government as having more “rights” than the people who live in our community, and that recognition of corporate “rights” is therefore, a denial of the rights of the residents of Barrington; and

Whereas, such a denial violates the New Hampshire Constitution's recognition that “all government of right originates from the people, is founded in consent and instituted for the general good;” and the Declaration of Independence's recognition that governments are instituted to secure and protect the rights of people and communities;

Therefore, We the People of Barrington hereby adopt this Community Bill of Rights Ordinance.

## Section 1 – Definitions

(a) “Corporations,” for purposes of this ordinance, shall include any corporation, limited partnership, limited liability partnership, business trust, public benefit corporation, business entity, or limited liability company organized under the laws of any state of the United States or under the laws of any country.

(b) “Ecosystem” shall include but not be limited to, wetlands, streams, rivers, aquifers, and other water systems, as well as all naturally occurring habitats that sustain wildlife, people, flora and fauna, soil-dwelling or aquatic organisms.

(c) “Resource extraction” shall include but not be limited to, the physical extraction of water, minerals, gravel, sand, or other minerals and mineral products. This phrase shall not include the removal of timber.

(d) “Toxic waste” shall include but not be limited to, waste products from petroleum refining or pesticide manufacturing, discarded pesticides or pharmaceuticals, sediment sludge, wastewater treatment sludge, heavy metals, chemical residue from manufacturing processes, biomedical wastes, mining residuals, radioactive wastes, or any other waste material that poses substantial present or potential hazard to human health or the environment.

(e) “Toxic waste disposal ” or “disposal of toxic waste” shall include but not be limited to, the physical deposition of toxic waste onto the land, or into waterways within the Town of Barrington.

## Section 2 - Statements of Law – A Local Bill of Rights

(a) Right to Access Water. All residents and ecosystems in Barrington possess a right to sustainably access, use, consume, and preserve water drawn from natural water cycles that provide water necessary to sustain life within the Town.

(b) Right to Clean Air. All residents and ecosystems of the town of Barrington possess a right to clean air untainted by toxins, carcinogens, particulates and other substances known to cause harm to health.

(c) Right to Peaceful Enjoyment of Home. Residents of Barrington possess a right to the peaceful enjoyment of their homes, free from interference, intrusion, nuisances or impediments to access and occupation.

(d) *Rights of Ecosystems.* Ecosystems, including but not limited to, wetlands, streams, rivers, aquifers, and other water systems, possess rights to exist and flourish within the Town of Barrington. Residents of the Town shall possess legal standing to enforce those rights on behalf of those ecosystems.

(e) *Right to Scenic Preservation.* All residents of the Town of Barrington possess a right to protect and preserve the scenic, historic and aesthetic values of the town, including clean air, pure water, healthy soil, and unspoiled vistas that provide the foundation for a rural quality of life and economic sustainability for local businesses. Residents and local representatives have the authority to enact and enforce legislation that guarantees the exercise of local self-government that is protective of these rights.

(f) *Right to Self-Government.* All residents of Barrington possess the right to a form of governance where they live which recognizes that all power is inherent in the people, and that all free governments are founded on the people's authority and consent. Use of the "Town of Barrington" municipal corporation by the sovereign people shall not be deemed, by any authority, to eliminate or reduce that self-governing authority.

(g) *Rights as Self-Executing.* All rights delineated and secured by this ordinance are inherent, fundamental, and inalienable, and shall be self-executing and enforceable against both private and public actors.

### **Section 3 -- Statements of Law – Prohibitions Necessary to Secure Bill of Rights' Protections**

(a) It shall be unlawful within the Town of Barrington for a corporation, or any person using a corporation, to engage in commercial resource extraction or the disposal of toxic waste.

(b) It shall be unlawful for any corporation or government to violate the rights recognized and secured by this Ordinance.

(c) No permit, license, privilege, charter, or other authority issued by any State or federal entity which would violate the prohibitions of this Ordinance and deprive any Town resident of any rights secured by this Ordinance, the New Hampshire Constitution, the United States Constitution, or other laws, shall be deemed valid within the Town of Barrington.

### **Section 4 --Exceptions.**

The people of the Town of Barrington hereby allow the following exceptions to the Statement of Law contained within §3 of this Ordinance:

(a) Utility corporations operating under valid and express contractual provisions in agreements entered into between the Town of Barrington and those utility corporations providing water, for the provision of water within the Town of Barrington.

(b) Corporations operating under valid and express contractual provisions in agreements entered into between residents of the Town of Barrington and those corporations for water, when the withdrawn water is used solely for on-site residential, household, agricultural or commercial facilities within the Town of Barrington, as long as such commercial facilities do not withdraw water for sale outside of the Town of Barrington, or purchase water withdrawn from the Town of Barrington for sale outside of the Town.

(c) The City of Rochester operating under valid and express contractual agreements entered into between that municipality and the Town of Barrington for water used solely for on-site residential, household, agricultural or commercial facilities within the City of Rochester, as long as such extraction does not withdraw water for sale outside of the City of Rochester.

(d) Sand or gravel extraction from existing, permitted gravel and sand extraction operations located within the Town of Barrington, which were approved prior to the adoption of this ordinance.

## **Section 5—Enforcement**

(a) Any corporation that violates any prohibition of this Ordinance shall be guilty of an offense and, upon conviction thereof, shall be sentenced to pay the maximum fine allowable under State law for that violation. Each day or portion thereof, and violation of each section of this Ordinance, shall count as separate violations.

(b) The Town of Barrington may enforce this Ordinance through an action in equity brought in any court possessing jurisdiction over activities occurring within the Town of Barrington. In such an action, the Town of Barrington shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(c) Any Town resident shall have the authority to enforce this Ordinance through an action in equity brought in any court possessing jurisdiction over activities occurring within the Town of Barrington. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

(d) Any person who brings an action to secure the rights of ecosystems shall bring that action in the name of the ecosystem in any court possessing jurisdiction over activities occurring within the Town of Barrington. Damages shall be measured by the cost of restoring the ecosystem to its state before the injury, and shall be paid to the Town of Barrington to be used exclusively for the full and complete restoration of the ecosystem.

### **Section 6—Corporate Powers**

(a) Corporations and other business entities which violate this Ordinance, or which seek to violate this Ordinance, shall not be deemed to be “persons,” nor possess any other legal rights, privileges, powers, or protections which would interfere with the enforcement of rights or prohibitions enumerated by this Ordinance. Such powers shall include the authority to assert state or federal preemptive laws in an attempt to overturn this Ordinance, and the authority to assert that the people of the Town lack the authority to adopt this Ordinance.

(b) All laws adopted by the legislature of the State of New Hampshire, rules adopted by any State agency, and permits issued by any State agency, shall be the law of the Town of Barrington only to the extent that they do not violate this Ordinance.

### **Section 7—Effective Date and Existing Permit holders**

This Ordinance shall be effective five (5) days after the date of its enactment, at which point the Ordinance shall apply to any and all commercial resource extraction or toxic waste disposal that would violate this ordinance regardless of the date of any applicable local, state, or federal permits.

### **Section 8—People’s Right to Self-Government**

Use of the courts or the legislature to attempt to overturn the provisions of this Ordinance shall require community meetings focused on changes to Town government that would insulate the Town from interference with the right of residents to local self-government.

### **Section 9— New Hampshire Constitutional Changes**

The people of the Town of Barrington call for amendment of the New Hampshire Constitution to secure within it explicitly a community right to local self-government free from preemption by State government. The people of Barrington also call for a state constitutional amendment and federal constitutional changes that explicitly elevate community rights above corporate property rights, and that recognizes the rights of nature enforceable by the residents of a community.

## **Section 10—Severability**

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The Town of Barrington hereby declares that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

## **Section 11---Repealer**

All inconsistent provisions of prior Ordinances adopted by the Town of Barrington are hereby repealed, but only to the extent necessary to remedy the inconsistency.

ENACTED AND ORDAINED this \_\_\_\_ day of \_\_\_\_\_, 2014, by the Town of Barrington, in Strafford County, New Hampshire.

By:

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